

In the High Court of Judicature of Travancore-Cochin
at Ernakulam.

Present

* The Hon'ble Justice Sri K. Sankaran
and
The Hon'ble Justice Sri Joseph Vithaysthal.

A.S.No.19 of 1952.

Land Acquisition Case No.2/1950 on the file of the Trichur
District Court.

Subramania Vachyer son of Kollayezhipara Kachathil Kattava Vachyer, Vadakkethra Village, Telappally Taluk, (appellant - second party in lower court)
By Advocate Sri T.S. Vackiaswara Iyer.

Amakkutty Kava Vallamma, daughter of Kinttarkkara Chinnakavu Vallamma, Chinnivilwamala Village, Telappally Taluk. (Respondent - 1st party in the court below)

By Advocate Sri T. Chandrasekhara Menon.

This appeal having been finally heard on 3.12.1954 the court on the same day delivered the following

Judgment.

This appeal arises out of a dispute in respect of the compensation amount awarded in respect of the property involved in the case. Parties 1 and 2 have set up rival claims. The first party claims the property as his jennam property and contends that the second party has only a kanoor right over the property. This case was accepted by the lower court and the compensation amount has been apportioned on that basis. The second party has come up in appeal agitating his contention that the jennam right of the property ^{is} with him. Of the documents relied on by him the earliest one is Ext.A a partition deed of the year 1101 ~~wherein~~ and wherein he has described this property as belonging to him in jennam. All the other documents are of later dates and they proceed on the basis of Ext.I, and hence they are of no greater significance. As far as the first party is concerned, it is seen that patta for this property was granted in his favour. This is seen from Ext.C. Admittedly the second party has not obtained patta and he is

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not able to explain how it happened to be granted to the first party. It is further seen that as early as in the year 1080 this property was dealt with in Ext. A partition deed executed by the members of the first party. They have dealt with this property as their own. Reference is also made to a Kanan Deed in favour of Venkatarao Vadhyaer who is the predecessor in interest of the second party. Ext. B has been produced as the Kanan Deed. It is an ancient deed and has been produced from proper custody. The lower court has held that it is a genuine document. The mere fact that the signature in Ext. B is somewhat different from the same person's signature in Exts. V and VI of later dates, is not a sufficient reason to discard Ext. B as a spurious document. The weight of the evidence on record is decidedly in favour of the case set up by the first party and hence we see no reason to disturb the conclusion arrived at by the lower court.

This appeal fails and is dismissed with costs.

3.12.1954.

(Sd) K. Sankaran, Judge.

(Sd) Joseph Vithayathil, Judge.

(True copy)

By *[Signature]*
Asst. Registrar,
for Registrar.

Compared by
Tharamanathan

M. K. J. 14/12/54